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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,768	05/24/2002	Jean-Pierre Giraud	PF 96	8743

25666 7590 03/22/2005

THE FIRM OF HUESCHEN AND SAGE  
500 COLUMBIA PLAZA  
350 EAST MICHIGAN AVENUE  
KALAMAZOO, MI 49007

EXAMINER

BOLLINGER, DAVID H

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/869,768

Applicant(s)

GIRAUD ET AL.

Examiner

David H Bollinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 14 through 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 14 through 26 are narrative in form, fail to clearly set forth the structural and operative arrangement of the various recited elements which go to make of the dispenser and are replete with vague and indefinite language instances of which are too numerous to point out specifically. Examples of the vague and indefinite language follow.

In claim 14 lines 3-4, the function of the "return translation means" is not clearly recited.

In claim 14 line 8, it is not clear what constitutes a "flexible shape-memory membrane" as this language does not define a specific structure nor does it clearly define a property of the membrane.

In claim 14 lines 10-11, the function of the "thrust means" is not clearly recited.

Further, the structural relationship of the various elements recited in claim 14 is not understood.

In claim 17 line 2, the recitation "a flexible membrane" appears to be a double inclusion as the membrane has previously been recited in claim 1 line 8.

In claim 19 line 2, the recitation "placed more or less" makes it unclear as to the position of the "fixed element."

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In claim 20 lines 2-3, the recitation "so as to be shaped as the object to dispensed" is unclear. Is this attempting to define that the "fixed element" has the same shape as the object to be dispensed?

Claim 22 raises ambiguity as to the relationship of the "outlet passage" and the "calibrated opening" in that claim 22 appears to define these two elements as being the same element. This appears to conflict with claim 14.

In claim 23 line 1, the recitation of "a receptacle" appears to constitute a double inclusion as this appears to define the same element recited as a body forming a reservoir recited in line 1 of claim 14.

Applicant is reminded that the above instance of vague and indefinite language are merely exemplary and the claims should be carefully reviewed and revised to avoid such vague and indefinite language, provide proper antecedent basis for the claim terminology and present the structural elements in a manner in which their operative relationship is clearly understood.


3. Claims 14 through 26 appear they would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David H Bollinger whose telephone number is 703-308-1113. The examiner can normally be reached on Monday through Friday from 9:00 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on 703-306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David H Bollinger  
Primary Examiner 3/21/05  
Art Unit 3653